

TROMBADORE, CLAIRE

From: TROMBADORE, CLAIRE
Sent: Wednesday, April 20, 2016 8:33 AM
To: bradedward@aol.com
Cc: Miller, Amy
Subject: Re: Hawaii Dept. of Agriculture's lack of regulation/Time for EPA to step in and takeover responsibilities

Thank you for your email. My colleague, Amy Miller, will be responding to your inquiry this week. Thank you.

On Apr 19, 2016, at 11:31 PM, "bradedward@aol.com" <bradedward@aol.com> wrote:

Aloha Ms. Trombadore,

Just checking in to see if you know the answer to my question in the email below.

Thank You,
Brad Edwards

-----Original Message-----

From: TROMBADORE, CLAIRE <Trombadore.Claire@epa.gov>
To: bradedward <bradedward@aol.com>
Cc: garylhooser <garylhooser@gmail.com>; tim.sandler <tim.sandler@gmail.com>; liz.brown <liz.brown@nbcuni.com>; senruderman <senruderman@capitol.hawaii.gov>; sengreen <sengreen@capitol.hawaii.gov>; TenBrook, Patti <TenBrook.Patti@epa.gov>; Rodriguez, Roberto <Rodriguez.Roberto@epa.gov>; james_chang <james_chang@schatz.senate.gov>; Higuchi, Dean <Higuchi.Dean@epa.gov>; Lott, Don <Lott.Don@epa.gov>; Miller, Amy <Miller.Amy@epa.gov>
Sent: Fri, Apr 8, 2016 2:25 pm
Subject: RE: Hawaii Dept. of Agriculture's lack of regulation/Time for EPA to step in and takeover responsibilities

Dear Mr. Edwards,

Thank you for your email. I am out of the office returning the week of April 18th. I will respond to your email upon my return. Thank you.

Claire Trombadore
Assistant Director
Water and Pesticides Branch
Enforcement Division
U.S. EPA Region 9, ENF-3
75 Hawthorne Street
San Francisco, CA 94105
(415) 972-3013
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From: bradedward@aol.com [mailto:bradedward@aol.com]
Sent: Friday, April 08, 2016 10:18 AM
To: TROMBADORE, CLAIRE <Trombadore.Claire@epa.gov>

Cc: garylhooser@gmail.com; tim.sandler@gmail.com; liz.brown@nbcuni.com; senruderman@capitol.hawaii.gov; sengreen@capitol.hawaii.gov; TenBrook, Patti <TenBrook.Patti@epa.gov>; Rodriguez, Roberto <Rodriguez.Roberto@epa.gov>; james_chang@schatz.senate.gov; Higuchi, Dean <Higuchi.Dean@epa.gov>; Lott, Don <Lott.Don@epa.gov>

Subject: Re: Hawaii Dept. of Agriculture's lack of regulation/Time for EPA to step in and takeover responsibilities

Aloha Ms. Trombadore,

Thanks for your email and for the added information. I appreciate that the EPA is concerned and is more actively involved in some of the things that are occurring in Hawaii. However, I am still a little confused about what powers the Hawaii Department of Agriculture has and doesn't have when it comes to pesticide use/misuse complaints and investigations.

Can you tell me if the HDOA has the power to pull spray logs from a company in the course of investigating a specific complaint? As you know, Scott Enright stated in a meeting with the Governor that he does not have that power. I would like to know if that is a true statement. If it is not true, then Hawaii has a more serious problem and needs more than just a little extra support. If Mr. Enright's statement is not true, then it would appear the the HDOA is purposely refusing to exercise the power that is granted to them to properly investigate complaints by letting important pieces of evidence go uncollected.

As you know, RUP spray logs are only required to be kept for two years while General Use spray logs are only required to be kept for 30 (or 60 days). Many of the unresolved cases of pesticide contamination inside homes in Paia are anywhere from 1-5 years old, which would mean that if no spray logs were collected, key pieces of evidence are now gone.

More recently, Mr. Enright promised to collect spray logs in a different request for a pesticide violation that he has been aware of for quite some time involving the illegal use of a RUP. **Once again, he claimed that he did not have the power to obtain the spray logs. Can you or somebody in the EPA please clarify the accuracy of this statement.**

There was a recent complaint that was filed by a Paia resident in December 2015 alleging pesticide overspray at their residence. The test results that Lester Chin (The HDOA inspector her on Maui) collected were just released. They showed that Lester Chin only sampled for Glyphosate and AMPA. However, the complaint stemmed from the spraying of newly planted cane fields. In the past, newly planted cane fields have been sprayed with a combination of 2-4D, Ametryn, Diruon, Dicamba, Hexazinone, Pendamethalin, and sometimes Atrazine. Why were these not tested for? Was the spray log pulled? If the spray log from that day was not pulled, then it would no longer be available to verify that Mr. Chin tested for the proper chemicals. A spray log would also be needed to verify that the label requirements regarding windspeed were followed for the specific chemicals that were being sprayed.

This is an extremely important issue that I hope that you can shed some light on. **Does the HDOA have the power to obtain a spray log in a pesticide use/misuse complaint?**

In regards to your concerns about the recordings that have been made of HDOA officials I can say the following. It was never my intent, nor the intent of others, to get any public officials in trouble. The recordings were only made as a last resort after Thomas Matsuda and Lester Chin made outrageous statements during unrecorded phone calls. They only served to document things that the EPA would have never believed if there wasn't evidence to verify what they actually said. In addition, Hawaii is a one party recording state which makes all of these recordings legal and admissible in court (if that is ever needed).

This is not just a technicality People in Hawaii are getting sick. Children have been unnecessarily exposed to pesticides. Homeowners have had the insides of their homes contaminated and are continuing to live in them without knowing how to respond. In some cases, almost 5 years have passed and no warning letters have been issued, no citations have been issued, and according to Mr. Enright, the HDOA has yet to even inform the applicators that there was a problem. The State toxicologist has still not had a chance to consult with homeowners to let them know how to decontaminate their homes. No follow up testing has been done to protect public safety. The HDOA is still refusing to test Paia Elementary

School despite the fact that it is surrounded by homes that have tested positive for chemical contamination and despite repeated pleas from parents of the children who attend.

If the HDOA is purposely not pulling spray logs and completing investigations, than more that just added oversight is needed. **Which is why the question of whether or not the HDOA has the power to pull spray logs is so important....**if Mr. Enright's statement is not true than one begins to wonder is something far more improper is going on.

I look forward to hearing back from you regarding this important issue. All I am asking at this point is for a clarification on the following: **Does the HDOA have the power to obtain a spray log in a pesticide use/misuse complaint?**

Mahalo,
Brad Edwards
(808) 250-7929

-----Original Message-----

From: TROMBADORE, CLAIRE <Trombadore.Claire@epa.gov>

To: bradedward <bradedward@aol.com>

Cc: garylhooser <garylhooser@gmail.com>; tim.sandler <tim.sandler@gmail.com>; liz.brown <liz.brown@nbcuni.com>; senruderman <senruderman@capitol.hawaii.gov>; sengreen <sengreen@capitol.hawaii.gov>; TenBrook, Patti <TenBrook.Patti@epa.gov>; Rodriguez, Roberto <Rodriguez.Roberto@epa.gov>; james_chang <james_chang@schatz.senate.gov>; Higuchi, Dean <Higuchi.Dean@epa.gov>; Lott, Don <Lott.Don@epa.gov>

Sent: Fri, Apr 1, 2016 12:03 pm

Subject: RE: Hawaii Dept. of Agriculture's lack of regulation/Time for EPA to step in and takeover responsibilities

Dear Mr. Edwards,

Thank you for your email regarding your concerns with pesticides in the state of Hawaii. As you note in your email, you have spoken with Mr. Roberto Rodriguez of my staff and others in the Pesticides Program here at EPA Region 9 about your concerns. EPA's mission is to protect human health and the environment and we understand your concerns about pesticides and requests for assistance. Potential exposures to pesticides are of serious concern to EPA. It is a high priority for EPA to investigate such incidents for possible non-compliance of federal law, especially when a pesticide exposure may have posed health hazards.

Pursuant to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), EPA provides oversight of the Hawaii Department of Agriculture's (HDOA) pesticides programs and enforcement. HDOA has primary enforcement authority for "use of pesticides" cases. As the primary enforcement authority, HDOA can take an enforcement action where appropriate or refer pesticide misuse cases to EPA. Recently, we have received several such cases from HDOA and are following up.

EPA has been in communication with HDOA with respect to your concerns. Earlier this year we requested a teleconference with HDOA and the Hawaii Department of Transportation (HDOT) regarding pesticide spraying. HDOA has issued warning notice letters and we are monitoring the issue closely.

I also wanted to take this opportunity to note that it is my understanding that taping conversations with individuals without their consent may be illegal and as a result would not be helpful to EPA in terms of case development.

Thank you again for sharing your concerns with us. EPA considers and evaluates public concerns and complaints regarding pesticides exposures for further investigation. While we cannot discuss active

enforcement cases, please know that we are working with HDOA in our oversight role of pesticide use enforcement to ensure that pesticide cases in the State of Hawaii are adequately addressed. Should you have any follow-up concerns, please contact Mr. Roberto Rodriguez at Rodriguez.roberto@epa.gov.

Sincerely,

Claire Trombadore
Assistant Director
Water and Pesticides Branch
Enforcement Division
U.S. EPA Region 9

From: bradedward@aol.com [<mailto:bradedward@aol.com>]

Sent: Tuesday, March 29, 2016 11:15 PM

To: dlott@epa.gov; TROMBADORE, CLAIRE <Trombadore.Claire@epa.gov>; TenBrook, Patti <TenBrook.Patti@epa.gov>; Rodriguez, Roberto <Rodriguez.Roberto@epa.gov>; james_chang@schatz.senate.gov

Cc: garylhooser@gmail.com; tim.sandler@gmail.com; liz.brown@nbcuni.com; senruderman@capitol.hawaii.gov; sengreen@capitol.hawaii.gov

Subject: Hawaii Dept. of Agriculture's lack of regulation/Time for EPA to step in and takeover responsibilities

Aloha Don Lott and Claire Trombadore,

My name is Brad Edwards and I am with the group HOPE (Hawaii Opposition to Pesticide Exposure). I have been in regular contact with Pam Cooper, Patti TenBrook, and Roberto Rodrigues from the Region 9 EPA division. They have been aware for quite some time of the serious concerns about the Hawaii Department of Agriculture's ability to effectively uphold the responsibilities that the EPA has entrusted them to fulfill when it comes to regulating the use of Pesticides here in the state of Hawaii.

While I have been regularly working with the region 9 staff to address many of the concerns about the Hawaii Department of Agriculture, something has recently occurred that has made it necessary to take our concerns to the next level, which is why I am now contacting both of you. Scott Enright, the Director of the Hawaii Department of Agriculture, has been aware of multiple FIRFA violations for quite some time, but has failed to act. But more importantly, he has been aware of a specific violation that occurred in July 2014 where Monsanto continued to spray a federally banned Restricted Use Pesticide, Methyl Parathion (otherwise known as PennCap-M) in high winds on their fields all the way through July 2014 (and possibly beyond).

Both Scott Enright and Thomas Matsuda (the Head of the Pesticides Branch of the Hawaii Department of Agriculture) were informed of this serious violation back in November 2015. At a town hall meeting in February 2016, Scott Enright promised to obtain the spray logs from Monsanto for 2014 so that he could investigate the incident and issue fines/citations if appropriate. He asked that people send him the request in writing. Several members of the public officially asked him in writing to obtain the spray logs and open an investigation into the incident(s). He ended up denying all of the requests, stating that his Department does not hold that information.

This is where it gets interesting. Two weeks ago a group of concerned citizens/groups met privately with Governor Ige and Scott Enright at the State Capitol on Oahu. During that meeting (which was videotaped), Scott Enright was confronted about his denial of the written requests for him to obtain the spray logs from Monsanto for 2014 based on the fact that they were illegally spraying a federally banned RUP (Methyl Parathion). In December 2015, Scott Enright was provided with a spray log from July 2014 that was leaked from Monsanto, which showed that they had in fact sprayed Methyl Parathion on one of their fields in July 2014, despite the fact all sales and use of Methyl Parathion were banned nationwide as of December 31st, 2013.

During that meeting with the Governor and concerned groups/individuals, Mr. Enright is on record stating that he consulted with the Hawaii Attorney General's Office who told him that he did not have the power to request any spray logs from Monsanto. He claimed that there was nothing he could do, which is why he had to deny multiple requests from the public to obtain the spray logs. Despite the fact that both him and the Governor have been aware of this serious violation since at least December 2015 (and arguably earlier), he has failed to investigate it.

To make matters worse, Thomas Matsuda, the Director of the Pesticides Branch of the Hawaii DOA, is also on record stating that he is refusing to enforce known pesticide label violations by State and County agencies (see attached transcripts). Mr. Matsuda even told Pam Cooper from Region 9, that his office did not have the power to cite or fine other government agencies. So according to Mr. Matsuda and Mr. Enright, the State of Hawaii Department of Agriculture, does not have the power to investigate pesticide complaints or label violations or obtain spray logs, even when there is a known violation. And according to Mr. Enright, the Hawaii Attorney General's Office is providing the cover for them to abandon the responsibilities that the EPA has entrusted them with.

Because the State of Hawaii Department of Agriculture and its leadership (on up to the Governor himself) have purposely decided to abandon their responsibilities when it comes to adequately regulating pesticide use in Hawaii, the US EPA has no alternative but to take over the regulatory responsibilities in our State to protect public health of our residents and our children. Senator Brian Schatz has already informed the EPA Congressional Affairs Office of these serious concerns. It is now time to take action....otherwise we are in danger of becoming another Flint, Michigan.

Since our Department of Agriculture is refusing to enforce Federal Regulations, the EPA needs to come in and take over. Roberto Rodriguez, Patti TenBrook, and Pam Cooper all stated that the State of Hawaii Department of Agriculture has been on their watch list for almost 3 years....yet nothing has changed. In fact, Mr. Enright's and Mr. Matsuda's negligence has only increased.

I have attached the transcripts of recorded conversations with Mr. Enright, Mr. Matsuda, and Lester Chin (DOA Enforcement Officer on Maui who appears to be trying to convince an alleged victim of Pesticide Exposure to not get the tests that his Doctor was ordering) to this email. I have the original recordings for verification of the authenticity of the transcripts. There are many other concerns that I can fill you in on that are not included in this email including the fact that multiple homes on Maui have tested positive for chemical contamination, and the Hawaii DOA has failed to adequately investigate or close any of the cases (see Thomas Matsuda and Scott Enright transcripts). This has gone on far too long and the negative impacts to public health are very real. In addition, some of these allegations could be criminal in nature.

I look forward to hearing back from you and beg you to step in and assert your authority immediately.

Mahalo,
Brad Edwards
Hawaii Opposition to Pesticide Exposure (HOPE)
(808) 250-7929